

§ 7.24

compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(d) *Redacted information.* DOT indicates the amount of information redacted from records released under the FOIA and the exemption(s) relied upon in redacting the information, at the place in the record where the redaction is made, when technically feasible and when doing so does not harm an interest protected by the exemption concerned.

(e) *Non-confidentiality of requests.* DOT releases the names of FOIA requesters and descriptions of the records they have sought, as shown on DOT FOIA logs, except to the extent that a statutory exemption authorizes or requires withholding of the log information.

§ 7.24 How do I submit a FOIA request?

(a) Each person desiring access to or a copy of a record covered by this subpart must make a written request (via paper, facsimile or electronic mail) for the record. The request should—

(1) Indicate that it is being made under FOIA;

(2) Display the word “FOIA” prominently on the envelope or on the subject line of the email or facsimile;

(3) Be addressed to the appropriate FOIA Requester Service Center as set forth in § 7.27;

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(4) State the format (e.g., paper, compact disc) in which the information is sought, if the requester has a preference (see § 7.26(c)); and

(5) Describe the record or records sought to the fullest extent possible. In this regard, the request should describe the subject matter of the record and, if known, indicate the date when it was made, the place where it was made, and the individual or office that made it. If the description does not enable the office handling the request to identify or locate the record sought, that office will contact the requester for additional information. So that the office may contact the requester for additional information, the request should provide the requester’s complete contact information, including name, address, telephone number, and email address, if any.

(b) With respect to fees, the request must—

(1) Specify the fee category (commercial use, news media, educational institution, noncommercial scientific institution, or other; see § 7.42(g)) in which the requester claims the request falls and the basis of this claim (see subpart E of this Part for fees and fee waiver requirements);

(2) Support any request for fee waiver by addressing, to the fullest extent possible, how the criteria set out in § 7.43(c) for establishing that the request is in the public interest have been met, if relevant;

(3) State the maximum amount of fees that the requester is willing to pay and/or include a request for a fee waiver or reduction (if a maximum amount is not stated by the requester, DOT will assume the requester is willing to pay up to US \$25);

(c) If the requester seeks expedited processing at the time of the initial request, the request must include a statement supporting expedited processing, as set forth in § 7.31(c);

(d) A request is not considered to be a FOIA request if the record or records sought are insufficiently described such that DOT is unable to respond as required by FOIA. The twenty Federal working day limit for responding to requests, described in § 7.31(a)(2), will not

start to run until the request is determined by DOT to be sufficiently understood to enable DOT to respond as contemplated under FOIA (or would have been so determined with the exercise of due diligence by an employee of DOT) and is considered received (see paragraph (e)); and

(e) Provided the request is considered to be a FOIA request (see paragraph (d)), the request is considered received when it is first received by the FOIA office to which it should have been originally sent, as shown in § 7.27, but in any event not later than ten Federal working days after it is first received by any DOT FOIA Requester Service Center identified in § 7.27.

(f) As provided in § 7.35, DOT's time limit for responding to a FOIA request as set forth in subpart D may be tolled one time to seek additional information needed to clarify the request and as often as necessary to clarify fee issues with the requester.

§ 7.25 How does DOT handle first-party requests?

(a) DOT processes FOIA requests from first-party requesters in accordance with this regulation. DOT also processes such requests in accordance with the Privacy Act (5 U.S.C. 552a) if the records reside in a Privacy Act system of records (defined in 5 U.S.C. 552a(a)(5) as a system from which information is retrieved by the individual's name or some other personal identifier). Whichever statute provides greater access is controlling.

(b) First party requesters must establish their identity to DOT's satisfaction before DOT will process the request under the Privacy Act. DOT may request that first party requesters authenticate their identity to assist with our evaluation of the application of FOIA exemptions, such as FOIA Exemption 6, 5 U.S.C. 552(b)(6), to the requested records. Acceptable methods of authenticating the requester's identity include those outlined in DOT's Privacy Act regulations at 49 CFR 10.37.

§ 7.26 To what extent and in what format are records searched and made available?

(a) *Existing records.* A request may seek only records that are in existence

at the time of the request. In determining which records are responsive to a request, DOT ordinarily will include only records in its possession as of the date it begins its search for them. If any other date is used, DOT will inform the requester of that date. DOT considers records created after the beginning of the search to be non-responsive to a request. A request made under this subpart may not require that new records be created in response to the request by, for example, combining or compiling selected items from manual files, preparing a new computer program, or calculating proportions, percentages, frequency distributions, trends, or comparisons. DOT may, in its discretion, create a new record as an alternative to disclosing existing records, if DOT determines that creating a new record will be less burdensome than disclosing large volumes of unassembled material and if the requester consents to accept the newly-created record in lieu of the existing records.

(b) *Electronic records.* DOT makes a reasonable effort to search electronic records without significantly interfering with the operation of the affected information system.

(c) *Format of production.* DOT provides records in the form or format sought by the requester, if the records are readily reproducible in that form or format.

(d) *Photocopying of records.* Original records ordinarily are copied except where, in DOT's judgment, copying would endanger the quality of the original or raise the reasonable possibility of irreparable harm to the record. Original records are not released from DOT custody. DOT may make records requested under this subpart available for inspection and copying during regular business hours at the place where the records are located.

(e) *If no responsive record is located.* If DOT cannot locate a requested record in agency files after a reasonable search (e.g., because the record was never created or was disposed of), DOT so notifies the requester.